

Message Text

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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 JUSE-00 FTC-01 /115 W
-----101810 072134Z /14

P 071952Z JUN 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 0571

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USMTN

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD, EEC
SUBJECT: MCDONALD/DENMAN DISCUSSIONS: NTM/NDWM, SUB-
- SIDY/CVD, STANDARDS, AND LICENSING

1. NTM/NDWM: MCDONALD RAISED THE ISSUE OF NON-TARIFF
MEASURES NOT BEING DEALT WITH MULTILATERALLY (NTM/NDWM)
WITH THE OBSERVATION THAT THE NEGOTIATING FIELD HAS
BEEN BAREN THUS FAR SINCE THE EC HAS GIVEN US A NEGATIVE
RESPONSE ON THE MAJOR NTM REQUESTED BY THE U.S.
(RULES OF ORIGIN (R/O)). LACK OF FORTHCOMING EC
OFFER HAS LED TO IMBALANCE IN THE NEGOTIATIONS AND
DOES NOT PROVIDE U.S. WITH INCENTIVE TO PURSUE THE NTM'S
REQUESTED BY THE EC (E.G., WINE GALLON/PROOF GALLON
AND JONES ACT EXEMPTIONS). DENMAN POINTED OUT THAT
BALANCE IN THIS AREA IS UNLIKELY SINCE THE EC HAS RE-
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QUESTED MORE NTM'S OF THE U.S. THAN VICE VERSA. HE
ALSO REPEATED THE WELL-KNOW REASONS WHY THE EC REGARDS
THEIR R/O NOT TO BE TRADE BARRIERS AND THE U.S. RESPOND-
ED THAT, QUITE APART FROM LEGAL ARGUMENTS, THE U.S. HAS
MADE A REQUEST AND EXPECTS EC ACTION IF A DEAL IS TO
BE STRUCK. ABBOTT PRESSED THE U.S. AS TO ANY SPECIFIC
LINKAGES WE WOULD SET FOR CHANGES IN U.S. NTM'S. HE

CONCLUDED THAT A DEAL MAY BE POSSIBLE, BUT HE DOES NOT KNOW WHAT THE U.S. WANTS IN EXCHANGE. AGAIN, MCDONALD DREW ATTENTION TO LACK OF EC ACTION ON OTHER SPECIFIC REQUESTS OF THE U.S. SUCH AS MEMBER STATE NTM'S ON DISTILLED LIQUORS. HE ADDED THAT THESE NTM'S WOULD NOT IN THEMSELVES PROVIDE THE U.S. WITH ENOUGH INCENTIVE TO DEVELOP INITIAL OFFER.

2. SUBSIDIES/CVD: AGRICULTURAL SUBSIDIES: MCDONALD INITIATED DISCUSSION OF SUBSIDIES WITH A REVIEW OF THE CURRENT U.S. THINKING OF IMPROVING THE GATT RULES ON AGRICULTURAL SUBSIDIES (E.G., NATIONAL VERSUS WORLD EXPORT MARKET, DEFINITION OF REP. PERIOD). HE STATED THAT INITIAL MEETING WITH EC AGRICULTURAL REPRESENTATIVES (JACQUOT, ET AL) WAS POSITIVE, BUT AFFIRMED U.S. POSITION THAT FAILURE TO INCLUDE RULES ON AGRICULTURAL SUBSIDIES IN THE OVERALL CODE WOULD MEAN NO U.S. ADOPTION OF AN INJURY TEST FOR THESE PRODUCTS.

3. INDUSTRIAL SUBSIDIES: KLEIN STATED THAT THE WORK IN THIS AREA HAS BEEN GOOD, BUT REITERATED EC'S SENSITIVITY TO DISCUSSION OF DOMESTIC SUBSIDIES. KLEIN REACTED TO THE RECENT U.S. IDEA OF UNILATERAL PROVISIONAL MEASURES UNDER THE GATT ARTICLE XVI/XXIII TRACK IN ABSENCE OF A TIMELY DECISION BY INTERNATIONAL LIMITED OFFICIAL USE

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BODY BY ASSERTING THAT EMPHASIS MUST BE PLACED ON THE POLITICAL WILL FOR THE INTERNATIONAL BODY TO REACH A DECISION. UNILATERAL ACTION SHOULD BE UNDER GATT ARTICLE VI PROCEDURES AND HE WOULD EXPLORE POSSIBLE ALTERNATIVES AT THE NEXT BILATERAL MEETING. MCDONALD STATED THAT GUIDELINES ON DOMESTIC SUBSIDIES ARE EXTREMELY IMPORTANT FOR INCREASING DISCIPLINE ON SUBSIDY PRACTICES. U.S. DESIRE FOR UNILATERAL ACTION UNDER THE GATT ARTICLE XVI/XXIII TRACK STEMS FROM U.S. SKEPTICISM OF EFFICACY OF THE GATT MECHANISM TO REACH A TIMELY CONCLUSION. DENMAN, NOTING THAT GATT ALREADY CALLS FOR "PROMPT" ACTION, COMMENTED THAT IF A SUBSIDY WAS CAUSING DAMAGE, ACTION WOULD BE AVAILABLE TO A SIGNATORY UNDER THE GATT ARTICLE VI TRACK. DENMAN REMARKED THAT THE EC WAS NOT AN EXCLUSIVE TARGET OF DOMESTIC SUBSIDIES DISCIPLINE POINTING TO U.S. R&D EXPENDITURES FOR THE AEROSPACE INDUSTRY. IN A SIDE COMMENT, DENMAN NOTED SPEECH BY U.S. DEPARTMENT OF COMMERCE ASSISTANT SECRETARY WEIL AS POTENTIAL U.S. USE OF SUBSIDIES TO PROMOTE EXPORTS.

4. MCDONALD QUERIED EC ON HOW EASTERN EUROPEAN COUNTRIES MIGHT BE TREATED UNDER ANY AGREEMENT. KLEIN SPECULATED THAT THIRD COUNTRY MARKET COMPARISONS AS USED IN ANTIDUMPING COULD ALSO BE USED TO ESTABLISH THE LEVEL OF A SUBSIDY. RECOURSE TO SUCH PROCEDURES FOR THE EC, HOWEVER, IS UNNECESSARY SINCE THEY COULD RELY ON QR'S UNDER THE PROTOCOLS OF ACCESSION. DENMAN WAS ADAMANT THAT THE EASTERN EUROPEAN COUNTRIES SHOULD BE KEPT OUT OF THE CODES WHERE THEY ASSUME NO DISCIPLINE BUT REAP THE BENEFITS OF PARTICIPATING IN THE CODE'S ADMINISTRATION.

5. STANDARDS: DENMAN EXPRESSED DISAPPOINTMENT THAT THE U.S. WAS UNABLE TO ACCEPT THE EC PROPOSAL ON LIMITED OFFICIAL USE

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LEVELS OF OBLIGATION. MCDONALD, WHILE AFFIRMING U.S. WILLINGNESS TO ADOPT THE "BEST ENDEAVORS" OBLIGATION, STATED THAT THE EC PROPOSAL GAVE RISE TO POLITICAL

DIFFICULTIES. NEWKIRK EXPLAINED THAT EC PROPOSAL IN ESSENCE WOULD FORCE THE U.S. TO ADOPT AN ABSOLUTE OBLIGATION TO ENSURE THE STATE AND LOCAL GOVERNMENTS COMPLIANCE WITH THE CODE. LUYTEN CLAIMED THAT THE EC PROPOSAL IS DESIGNED TO AVOID SUCH A SITUATION BY NOT REQUIRING A DIRECT OBLIGATION, BUT ONLY STIPULATING THAT THE FEDERAL GOVERNMENT BE RESPONSIBLE (E.G., LIABLE FOR COMPENSATION) IN THE EVENT OF NON-COMPLIANCE BY STATE AND LOCAL BODIES. ABBOTT SAID THAT CURRENT GATT PROVISIONS ARE NOT ADEQUATE SINCE THE ASSERTION BY A CONTRACTING PARTY THAT "BEST ENDEAVORS" WERE EMPLOYED UNDER ARTICLE XXIV:12 ABSOLVES IT FROM ANY FURTHER RESPONSIBILITY. DENMAN THOUGHT THE EC PROPOSAL WOULD BE ATTRACTIVE TO THE U.S. SINCE ITS APPLICATION WITHIN THE EC MEMBER STATES WOULD ADVANCE LIMITED OFFICIAL USE

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U.S. EXPORT INTERESTS. DENMAN INDICATED HE WOULD REVIEW THE EC PROPOSAL TO SEE IF IT COULD BE REVISED TO MEET THE U.S. PROBLEMS. ABBOTT OPINED THAT ONE POSSIBILITY WOULD BE FOR AN INTERNATIONAL BODY TO DETERMINE IF EFFORTS EMPLOYED WERE "REASONABLE", RATHER THAN BLIND ACCEPTANCE OF ASSERTION THAT REASONABLE EFFORTS HAD BEEN UTILIZED.

6. ON DISPUTE SETTLEMENT, DENMAN RECITED EC'S DESIRE FOR FLEXIBLE PROCEDURES. ACCORDING TO DENMAN, U.S. PROPOSALS PRESENT THREE AREAS OF DIFFICULTIES: (1) EXCLUSIVE USE OF PANELS; (2) RIGHT TO PANEL; AND (3) STRICT TIME LIMITS. THE EC IS WILLING TO BE FLEXIBLE ON THESE POINTS, BUT CANNOT ACCEPT CURRENT U.S. APPROACH. MCDONALD NOTED THAT A WORKABLE DISPUTE SETTLEMENT SYSTEM IS NEEDED TO PREVENT PARTIES TO THE DISPUTE DISRUPTING THE PROCEEDINGS.

7. LICENSING: DENMAN REPEATED THAT THE EC HAS FUNDAMENTAL PROBLEMS IN THIS AREA BUT HE BELIEVES THAT THESE CAN BE HANDLED IF THERE ARE SATISFACTORY SOLUTIONS REACHED IN THE AREA OF SAFEGUARDS AND QR'S.

8. DRAFTED BY WALLAR. MCDONALD

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Message Attributes

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